

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.997 of 2019
In
Civil Writ Jurisdiction Case No.8408 of 2019

- 1.1. Panchwanti Devi, W/o Shri Dharnidhar Mishra, R/o Village- Hanuman Nagar, P.O. Bharwari, P.S. Rosera, District- Samatipur, Bihar.
- 1.2. Saroj Devi, D/o Shri Dharnidhar Mishra, R/o Village- Hanuman Nagar, P.O. Bharwari, P.S. Rosera, District- Samatipur, Bihar.
- 1.3. Indira Kumari, D/o Shri Dharnidhar Mishra, R/o Village- Hanuman Nagar, P.O. Bharwari, P.S. Rosera, District- Samatipur, Bihar.
- 1.4. Ranjana Devi, D/o Shri Dharnidhar Mishra, R/o Village- Hanuman Nagar, P.O. Bharwari, P.S. Rosera, District- Samatipur, Bihar.
- 1.5. Kanchan Devi, D/o Shri Dharnidhar Mishra, R/o Village- Hanuman Nagar, P.O. Bharwari, P.S. Rosera, District- Samatipur, Bihar.
2. Sushil Kumar Mishra Son of Shri Dharnidhar Mishra Resident of Village- Hanuman Nagar, P.O.- Bharbari, P.S.- Rosera, District- Samastipur.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Road construction Department, Government of Bihar, Patna.
2. The District Magistrate -Cum- Collector Samastipur.
3. The District Land Acquisition Officer Samastipur.
4. The Circle Officer Hasanpur, Samastipur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sameer Ranjan, Advocate
Mr.Praveen Prakash, Advocate
For the Respondent/s : Mr. P.K. Shahi, Advocate General
Mr. Raj Ballabh Pd. Yadav (AAG-11)
Mr. Jitendra Kumar, AC to AAG-11

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 29-08-2024

The writ petition was filed challenging an order dated
08.01.2019 passed in Misc. Case No. 02 of 2019 rejecting the



claim for compensation against acquisition of the land of the writ-petitioners. The writ-petitioners contended that their land was acquired in L.A. Case No. 07 of 1976.

2. The learned Single Judge held that the claim was filed after 42 years of acquisition and there was no document or notification filed, in connection with the acquisition of the subject land. The writ petition was dismissed.

3. In the appeal filed, the Division Bench found on the basis of the categorical stand of the State that the subject land had been consumed and that the value of the land, as assessed by the State at Rs. 4,68,099/-, was to be paid.

4. An appeal was taken to the Hon'ble Supreme Court and in Civil Appeal No. 6351 of 2024 the Hon'ble Supreme Court set aside the order of the Division Bench and remitted the matter for fresh consideration. It was found that the ground of delay and laches cannot be raised in a case of continuing cause of action or if the circumstances shock the judicial conscience of the Court. It was also found that when the land of the appellant came to be acquired, the right to property was a fundamental right guaranteed under Article 31 in Part-III of the Constitution; which could not be deprived without due process of law and only upon just and fair compensation. Even when the right to



property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978. It was held so in Paragraph 18, which is extracted hereinbelow:-

“18. The right to property ceased to be a fundamental right by the Constitution (Forty-Fourth Amendment) Act, 1978, however, it continued to be a human right in a welfare State, and a constitutional right under Article 300-A of the Constitution. Article 300-A provides that no person shall be deprived of his property save by authority of law. The State cannot dispossess a citizen of his property except in accordance with the procedure established by law. The obligation to pay compensation, though not expressly included in Article 300-A, can be inferred in that Article. [See: K.T. Plantation (P) Ltd. v. State of Karnataka, (2011) 9 SCC 1].”

5. The matter has come up before us on the remand made by the Hon’ble Supreme Court and we directed the State to give the details of the acquisition and the award if any passed. The learned Advocate General took time to take instructions and has today conceded that no details are available with the Government. However, the subject land has been acquired for the purpose of State Highway. The possession has been taken and a Highway has also been constructed.

6. In the above circumstances and also the fact that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for



short ‘the Act of 2013’) has come into force, we rely on the judgment of the Hon’ble Supreme Court in ***Indore Development Authority v. Manoharlal and others; (2020) 8 SCC 129***. We specifically refer to Paragraph 366.1, which is extracted hereinbelow:-

“366.1. Under the provisions of Section 24(1) (a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.”

7. In the present case, admittedly there is no award made or rather; there is nothing produced on record to indicate an award having been made on the acquisition. In the above circumstances, the matter will have to be considered under Section 24(1)(a) and compensation will have to be determined under the provisions of the Act of 2013.

8. Section 24(1)(a) of the Act of 2013 reads as under:-

“24(1)(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or”

9. In the above circumstances, the compensation claim of the appellants will have to be considered under the Act of 2013 subject only to their establishing the title to the said



land before the appropriate authority. The District Collector, Samastipur shall initiate proceedings under the Act of 2013 within a period of one month from today, determine the amount of compensation and if the appellants are satisfied, it will be disbursed. Further proceedings, if the appellants are not satisfied with the award, can also be taken under the Act of 2013. We make it clear that we have not observed anything about the title of the appellants which the appellants/legal heirs of the original owner will have to establish before the competent authority.

10. With the above directions, the Letters Patent Appeal stands disposed of.

11. Interlocutory Application(s), if any, shall stand closed.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	03.09.2024
Transmission Date	

